IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 22273 of 2006(B)

AGAINST THE ORDER IN EP.557/05,EA.99/05 IN OS.1856/1998 of PRL.M.C.,ERNAKULAM
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PETITIONERS/JUDGMENT DEBTORS 3 AND 4:
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1. **P.S. SANU, S/O. LATE SADANANDAN, L.D.C., NAVAL ARMAMENT DEPOT, ALUVA, NOW RESIDING PARAYANGATTUTHARA HOUSE,PANAMBUKAD,P.O.VALLARPADAM KANAYANNOOR TALUK, ERNAKULAM DISTRICT.**

2. **P.S. SELVARAJ, S/O.LATE SADANANDAN, PARAYANGATTUTHARA HOUSE,PANAMBUKAD,P.O.VALLARPADAM KANAYANNOOR TALUK, ERNAKULAM DISTRICT.**

BY ADV. SRI.T.I.DANIEL

RESPONDENTS/DECREE HOLDERS:
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1. **DASAN, S/O. GANGADHARAN, SRAMPIKKAL HOUSE, CHERAI, PALLIPURAM VILLAGE, KOCHI TALUK (DIED).**

2. **GIRIJA, W/O. LATE DASAN, SRAMPIKKAL HOUSE, CHERAI, PALLIPURAM VILLAGE, KOCHI TALUK.**

3. **HARIDAS (MINOR), S/O. DASAN, REPRESENTED BY NEXT FRIEND MOTHER GIRIJA, W/O. DASAN, SRAMPIKKAL HOUSE, CHERAI, PALLIPPURAM VILLAGE, KOCHI TALUK.**

R2, R3 BY ADV. SRI.MATHEW K.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE SALARY SLIP FOR THE MONTH OF JULY, 2006 OF THE 1ST PETITIONER.

EXT.P2: COPY OF THE ORDER DATED 1ST FEBRUARY, 2006 IN E.A.NO.99/05 IN E.P.NO.557/05 IN O.S.NO.1856/98.

TRUE COPY

P.A.TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No. 22273 OF 2006

Dated this the 2nd day of July, 2007

JUDGMENT

In execution of a decree for recovery of money the execution court ordered warrant for arresting the 2nd petitioner who was the second judgment debtor. Noticing that he was evading arrest the court permitted the decree holder to seek the assistance of police officer for ensuring arrest. The decree which is a composite decree is simultaneously being executed also by sale of properties belonging to the first petitioner. The 1st petitioner has a contention that a portion of his properties proposed to be sold will suffice for discharging the decree debt. Seeking a review of the order of arrest which was passed against the 2nd petitioner, 1st and 2nd petitioners together filed EA No.99 of 2005 which was dismissed by the execution court under Ext.P2. In this Writ Petition, Ext.P2 is impugned and a direction to the execution court to sell only a portion of the properties of the judgment debtor which is sufficient for clearing the decree debt is also sought for. While admitting this Writ Petition, this court granted stay for six months on condition that the petitioner remits a sum of Rs.10,000/- towards the decree debt within two months of 21.08.06. The counsel on either sides are not available before me to inform whether the above condition has been complied

with. However, having gone through Ext.P2 the impugned order and the averments in the Writ Petition itself, I am of the view that the maximum relief which can be aspired for by the petitioner is some time for raising money necessary for liquidating the decree debt in full.

Under these circumstances, the Writ Petition will stand disposed of issuing the following directions:

The execution court will very whether this court's direction that a sum of Rs.10,000 shall be paid within two months of 21.08.06 has been complied with by the petitioner. If it is seen on such verification that there is compliance, then the execution court will hold up all further proceedings in execution for another period of four months from today. It is open to the petitioners, in the meanwhile, to pay off the decree debt either in lump or in instalments. It is also open to them to have any portion of their property sold so that funds necessary for discharging the decree debt in full is raised by them. At any rate the order of stay will not go beyond four months from today, that too only if the petitioners complied with the condition imposed by this court on 21.08.06. If on verification the learned Munsiff finds that the condition has not been complied with, the petitioners will not be entitled for getting benefits of this judgment, in which case the Writ Petition will stand dismissed.

PIUS C. KURIAKOSE, JUDGE

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